

AMENDED IN ASSEMBLY APRIL 9, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 993**

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**Introduced by Assembly Member Aghazarian**

February 22, 2007

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An act to amend ~~Section 1730~~ *Sections 1729, 1730, and 1736.1* of, and to add Section 1728.8 to, the Health and Safety Code, relating to home health agencies.

LEGISLATIVE COUNSEL'S DIGEST

AB 993, as amended, Aghazarian. State Department of Public Health: licensure: home health agencies.

Existing law requires private or public organizations, including, but not limited to, any partnership, corporation, political subdivision of the state, or other governmental agency within the state, to obtain a home health agency license before providing or arranging for the provision of skilled nursing services in the home. Existing law provides for licensing of home health agencies by the State Department of Health Services. Existing law gives the department full range of authority over accredited home health agencies to ensure that the licensure and accreditation requirements are met, including the entire scope of enforcement sanctions and options available for unaccredited home health agencies.

Effective July 1, 2007, responsibility for the administration of the above-mentioned provisions will be transferred to the State Department of Public Health.

This bill would require the department to notify ~~an applicant to become a new parent, branch, or change of ownership~~ home health agency *applicant*, in writing, that it has received the application, and if

applicable, whether and in what form the application contains deficiencies, as specified. The bill would also require the department to conduct a licensure survey, *if necessary*, and in certain circumstances, an unannounced certification survey in accordance with a specified timeline, as provided. The bill would require the department to forward the results of the certification surveys to the federal Centers for Medicare and Medicaid Services, as specified.

The bill would also require the department, if it fails to comply with the above-mentioned specified licensure and certification survey timeline, to reduce the applicant's licensure fees in accordance with a prescribed formula. The bill would permit the department, commencing January 1, 2008, to allow certain ~~accredited~~ organizations to conduct the initial licensure surveys, as permitted by federal law. The bill would also require the department, commencing February 1, ~~2009~~ 2008, and every February 1 thereafter, to include in its annual report to the Legislature, as required by existing law, information relating to processing home health agency licensure applications, as specified. *The bill would require the department to work with the home health industry association and providers to modify home health agency licensing and certification program fees for 2008, based on requirements set forth in the bill.*

Existing law requires that a home health ~~care~~ agency license shall expire 12 months after the date of issuance, and provides for renewal applications to be filed with the department not less than 30 days prior to the expiration date, accompanied by the necessary fees.

This bill would, in addition, require the department to mail a renewal application to all licensees not less than 45 days prior to the expiration date, as specified. The bill would further require the department to make license renewal forms available online to expedite the license renewal process and ensure that providers remain in good standing.

*Existing law requires an applicant for certification as a certified home health aide to satisfy certain requirements, including to have successfully completed a training program approved by the department pursuant to applicable state and federal regulations. A violation of these provisions is a misdemeanor.*

*This bill would require the certified home health aide training program to have a minimum of 75 hours or a competency evaluation program equivalent. By changing the definition of an existing crime, the bill would impose a state-mandated local program.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 1728.8 is added to the Health and Safety  
2     Code, to read:  
3     1728.8. (a) Notwithstanding any other provision of this chapter,  
4     no later than 30 days from the date ~~an application to become a~~  
5     ~~home health agency a new parent, branch, or change of ownership~~  
6     ~~home health agency application~~ is received, the department shall  
7     notify the applicant in writing of its receipt and review the  
8     application for completeness. If the application is incomplete, the  
9     department shall notify the applicant of this fact in writing,  
10    including the identification and form of each deficiency.  
11    (b) No later than 60 calendar days after the department receives  
12    ~~an application to become a home health agency, the department a~~  
13    ~~complete parent, branch, or change of ownership home health~~  
14    ~~agency application, the department~~ shall conduct a licensure  
15    survey, *if necessary*, to inspect the agency and evaluate the  
16    agency's compliance with state requirements. *If a licensure survey*  
17    *is not necessary because of the type of application or the good*  
18    *standing of the agency in accordance with federal requirements,*  
19    *the department shall complete the application paperwork no later*  
20    *than 60 calendar days after the department receives the*  
21    *application. The department shall forward its recommendation, if*  
22    *necessary, and all other information, to the federal Centers for*  
23    *Medicare and Medicaid Services within the same 60 calendar*  
24    *days. No later than 30 calendar days after the deadline, the*  
25    *department shall notify the home health agency, in writing, of the*  
26    *recommendation or action taken by the department.*  
27    (c) (1) For those applicants seeking to receive reimbursement  
28    under the Medicare or Medi-Cal programs, the department shall  
29    conduct an unannounced certification survey, *if necessary*, no later

1 than 60 calendar days after the department conducts the licensure  
2 survey required by subdivision (b), and after the department's  
3 receipt of a letter from the home health agency notifying the  
4 department of its readiness for the certification survey from a  
5 parent or branch agency, whichever is later.

6 (2) No later than 15 calendar days after the certification survey,  
7 the department shall forward the results of its licensure and  
8 certification surveys and all other information necessary for  
9 certification to the federal Centers for Medicare and Medicaid  
10 Services. *If a certification survey is not necessary because of the*  
11 *type of application, or the good standing of the agency in*  
12 *accordance with federal requirements, the department shall*  
13 *complete and forward the application paperwork no later than 60*  
14 *calendar days after the department receives the application. No*  
15 *later than 30 calendar days after the deadline, the department*  
16 *shall notify the home health agency, in writing, of its*  
17 *recommendation.*

18 (d) If the department fails to conduct licensing and certification  
19 surveys *or complete application paperwork* in accordance with  
20 this section, the department shall be considered delinquent in its  
21 duties, and in which case, the department shall reduce a home  
22 health agency's licensing and certification program fee, as  
23 described in subdivision (b) of Section 1266, in accordance with  
24 the following:

25 (1) For a delinquency period of 30 calendar days or less, the  
26 fees shall be reduced by 10 percent.

27 (2) For a delinquency period of 31 to 60 calendar days, inclusive,  
28 the fees shall be reduced by 20 percent.

29 (3) For a delinquency period of 61 to 179 calendar days, the  
30 fees shall be reduced by 60 percent.

31 (4) For all delinquency periods in excess of 180 calendar days,  
32 the fees shall be waived for one year, and the State Public Health  
33 Officer shall investigate the cause of the delinquency.

34 (e) The department shall give existing home health agency  
35 providers in good standing priority in licensure applications  
36 submitted pursuant to this section.

37 (f) Commencing January 1, 2008, the department shall allow  
38 ~~accredited~~ *accrediting* organizations approved by the federal  
39 Centers of Medicare and Medicaid Services to conduct initial

1 licensure surveys for home health agencies as permissible under  
2 federal law.

3 (g) This section shall apply to all licensing and certification  
4 entities, including any county that contracts with the state to  
5 provide licensing and certification services on behalf of the state.

6 (h) Commencing February 1, ~~2009~~ 2008, and every February  
7 1 thereafter, the department shall include in its report required  
8 under paragraph (1) of subdivision (d) of Section 1266 a description  
9 of the *actual* amount of staff and time, *including number of hours*  
10 *and days*, necessary to process the different components of home  
11 health agency licensure applications, including, but not limited to,  
12 the following information:

13 (1) The number of pending home health agency applications in  
14 terms of initial licensure and certification surveys.

15 (2) Any additional surveys necessary to complete licensure and  
16 certification.

17 (3) The number of renewals approved with no survey, with  
18 changes of ownership, *with deemed status*, or with established  
19 new branches.

20 *SEC. 2. Section 1729 of the Health and Safety Code is amended*  
21 *to read:*

22 1729. (a) Each application for a license under this chapter,  
23 except applications by the State of California or any state  
24 department, authority, bureau, commission, or officer, shall be  
25 accompanied by a Licensing and Certification Program fee for the  
26 headquarters or main office of the agency and for each additional  
27 branch office maintained and operated by the agency in the amount  
28 set in accordance with Section 1266. *The department shall work*  
29 *with the home health agency industry association and providers*  
30 *to modify home health agency licensing and certification program*  
31 *fees for 2008, based on actual workload, and the following*  
32 *categories:*

33 (1) *Annual renewal fee for a parent not requiring a survey.*

34 (2) *Annual renewal fee for a branch not requiring a survey.*

35 (3) *Annual renewal fee for a parent or branch requiring a*  
36 *licensure-only survey.*

37 (4) *Annual renewal fee for a parent or branch requiring a*  
38 *certification survey.*

39 (5) *Annual renewal fee for deemed status.*

40 (6) *Application fee for a new parent that is licensed only.*

1 (7) *Application fee for a new parent that is licensed and*  
2 *certified.*

3 (8) *Application fee for a new branch.*

4 (9) *Application fee for change of ownership.*

5 (b) *The application fee shall supplant the licensing and*  
6 *certification fee for the first year of licensure.*

7 ~~SEC. 2.~~

8 SEC. 3. Section 1730 of the Health and Safety Code is amended  
9 to read:

10 1730. (a) Each license issued under this chapter shall expire  
11 12 months from the date of its issuance. Application for renewal  
12 of license accompanied by the necessary fee shall be filed with  
13 the state department annually, not less than 30 days prior to  
14 expiration date. Failure to make a timely renewal shall result in  
15 expiration of the license.

16 (b) (1) At least 45 days prior to the expiration of a license issued  
17 pursuant to this chapter, the department shall mail an application  
18 for renewal to the licensee that shall include all of the following:

19 (A) A license and facility change form.

20 (B) A licensee acknowledgment form.

21 (C) Renewal fee information.

22 (2) Any application for a license renewal shall be submitted  
23 with the necessary fee in accordance with subdivision (a). A license  
24 shall be deemed renewed upon payment of the necessary fee,  
25 commencing from the license's expiration date. If the requirements  
26 of this section are met, the department shall issue a license to the  
27 agency and its branches by the expiration date of the license to  
28 ensure the provider remains in good standing. *The agency's license*  
29 *shall be mailed within 30 calendar days after the date the*  
30 *department receives the renewal fee.*

31 (c) No later than December 1, 2008, the department shall make  
32 renewal forms available online, *and shall provide the ability to*  
33 *verify the status of a home health agency's licensure renewal*, to  
34 expedite the licensure renewal process and ensure that providers  
35 remain in good standing.

36 SEC. 4. Section 1736.1 of the Health and Safety Code is  
37 amended to read:

38 1736.1. (a) An applicant for certification as a certified home  
39 health aide shall comply with each of the following requirements:

1 (1) Have successfully completed a training program *with a*  
2 *minimum of 75 hours or an equivalent competency evaluation*  
3 *program* approved by the department pursuant to applicable federal  
4 and state regulations.

5 (2) Obtain a criminal record clearance pursuant to Section  
6 1736.6.

7 (b) Any person who violates this article is guilty of a  
8 misdemeanor and, upon a conviction thereof, shall be punished  
9 by imprisonment in the county jail for not more than 180 days, or  
10 by a fine of not less than twenty dollars (\$20) nor more than one  
11 thousand dollars (\$1,000), or by both fine and imprisonment.

12 *SEC. 5. No reimbursement is required by this act pursuant to*  
13 *Section 6 of Article XIII B of the California Constitution because*  
14 *the only costs that may be incurred by a local agency or school*  
15 *district will be incurred because this act creates a new crime or*  
16 *infraction, eliminates a crime or infraction, or changes the penalty*  
17 *for a crime or infraction, within the meaning of Section 17556 of*  
18 *the Government Code, or changes the definition of a crime within*  
19 *the meaning of Section 6 of Article XIII B of the California*  
20 *Constitution.*